

## AIR TRANSIT

*Exchange of notes at Guatemala April 23 and May 27, 1935*  
*Entered into force May 27, 1935*  
*Terminated November 29, 1947*<sup>1</sup>

Department of State files

### *The American Minister to the Minister of Foreign Affairs*

No. 24

GUATEMALA, April 23, 1935

#### EXCELLENCY:

I have the honor to inform Your Excellency that I now have my Government's views with respect to the opinion of the General Bureau of Civil Aeronautics concerning the interpretation of Article IV of the Habana Convention<sup>2</sup> on Commercial Aviation, which was transcribed in Your Excellency's courteous note No. 1529 of February 19, 1935.

The opinion sets forth that:

" . . . in order to facilitate international air traffic of pleasure or touring aircraft over the territory of the Republic and in order that the Government of Guatemala may cooperate with that of the United States of America, it can be agreed to exempt said aircraft from soliciting the prior respective permission, but leaving continually in force the obligation to give notice with the anticipation necessary for the information of the appropriate authorities. Said notice must contain: the type of airship, its individual marks and identification, the name of the pilot, and the approximate date of its arrival. In order that the Government may receive the notice with the greatest promptness and to avoid consequent annoyances, it might be agreed that said notice would be sent directly to the Ministry under your charge" (the Ministry of Fomento).

The General Bureau states further that

" . . . the prior notice of the arrival of a pleasure or tourist aircraft in territory of the Republic does not imply a request for a permit. . . . The aircraft under obligation to give notice does not thereby contract the obliga-

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<sup>1</sup> Date of termination, as to the United States, of convention signed at Havana Feb. 20, 1928 (TS 840, *ante*, vol. 2, p. 698).

<sup>2</sup> TS 840, *ante*, vol. 2, p. 698.

tion to await the reply, since, as has already been said, it is not a question of a permit but of a simple announcement of its arrival”.

The procedure thus proposed by the General Bureau, with the approval of the Ministry of Fomento, is satisfactory to the Government of the United States, and I will hereinafter submit for the consideration of the appropriate Guatemalan authorities an arrangement for carrying it into effect.

I am instructed to point out however, that, while the Government of the United States and the Government of Guatemala are now willing that the private aircraft of either country shall be permitted to enter the other country without the necessity of obtaining special authorization for each flight, the Government of Guatemala considers that such procedure would constitute a special agreement under Article XXX of the Habana Convention, while the Government of the United States considers that the procedure is already authorized under Article IV of the Convention. I will add that, while all the Latin American countries that have ratified the Habana Convention on Commercial Aviation, with the exception of Mexico and Guatemala, have agreed to my Government's interpretation of Article IV, and while the Department of State would much prefer to have a uniform understanding regarding this article, my Government is not disposed to press this phase of the matter with the Guatemalan Government at this time. On the contrary, my Government is now prepared to give effect to the proposed procedure without the necessity of entering into a further discussion as to the interpretation of the articles of the Convention, each Government reserving its position as to what it considers to be the proper interpretation of these articles and deferring a further discussion of the matter to some time in the future when some occasion may arise requiring a review of the subject.

I am therefore instructed to propose the following arrangement for carrying into effect the procedure now agreed upon by the two Governments:

The Department of State would address a communication to the appropriate agency of the Government of the United States reading as follows:

As parties to the Habana Convention on Commercial Aviation adopted at Habana, Cuba, on February 20, 1928, the Government of the United States of America and the Government of Guatemala have reached an understanding that the private aircraft of either country engaged in pleasure or tourist flights may enter territory of the other country without the necessity of obtaining special authorization for each flight from the Government of the latter country.

Such right of entry is, however, conditioned upon compliance with the technical requirements as to entry and clearance and other regulations in force in the country entered.

In the case of aircraft of the United States departing for Guatemala advance notice of the intended arrival of the aircraft in Guatemala must be

given by the pilot of the aircraft. This notice must be communicated by the pilot directly to the Ministry of Fomento, Guatemala City and must contain the following data: type of aircraft, its individual marks and identification, the name of the pilot, and the approximate date of the arrival of the aircraft.

In communicating the foregoing statement to the appropriate agency of the Government of the United States, the Department of State would request that the authorities of the Government of the United States concerned with the entry of aircraft be informed of the right of Guatemalan aircraft to enter the United States without obtaining special authorization for each flight.

In like manner, the Government of Guatemala, if the proposed communication set forth above is acceptable to it, would furnish the following statement for the guidance of the officials in Guatemala who are concerned with the entry of foreign aircraft:

As parties to the Habana Convention on Commercial Aviation adopted at Habana, Cuba, on February 20, 1928, the Government of Guatemala and the Government of the United States of America have reached an understanding that the private aircraft of either country engaged in pleasure or tourist flights may enter territory of the other country without the necessity of obtaining special authorization for each flight from the Government of the latter country.

Such right of entry is, however, conditioned upon compliance with the technical requirements as to entry and clearance and other regulations in force in the country entered.

In the case of aircraft of Guatemala departing for the United States, advance notice of the intended arrival of the aircraft must be given by the pilot of the aircraft to the collector of customs at the place of first landing in the United States, which must be an airport of entry unless provision for landing elsewhere is made in advance with the proper United States customs officials. The notice of intended arrival must contain the following data: type of aircraft, the markings thereon, the name of the pilot, and the approximate time of arrival of the aircraft.

I will greatly appreciate Your Excellency's further cooperation in this matter to the end that I may be advised, for the information of my Government, whether the proposed arrangement is agreeable to the authorities of this Government.

Accept, Excellency, the assurances of my highest and most distinguished consideration.

MATTHEW E. HANNA

*The Minister of Foreign Affairs to the American Minister*

[TRANSLATION]

MINISTRY FOR FOREIGN AFFAIRS  
REPUBLIC OF GUATEMALANo. 6173  
360.A.(73/0)

GUATEMALA, May 27, 1935

MR. MINISTER:

With reference to the Legation's courteous note No. 24, of April 23, last, I have the honor to transcribe to Your Excellency the report which the General Bureau of Civil Aeronautics has submitted to the Minister of Fomento, and which says literally:

GENERAL BUREAU OF CIVIL AERONAUTICS  
*Guatemala, May 18, 1935*

MR. MINISTER:

Complying with the foregoing instruction, I have the honor to inform you as follows with respect to the agreement for putting into effect the procedure proposed by this Bureau with the approval of the Ministry under your charge, which agreement the Minister of the United States of America has been pleased to submit for the consideration of the appropriate Guatemalan authorities in view of said procedure having been found satisfactory to the Government of the United States.

The General Bureau of Civil Aeronautics under my charge finds said agreement acceptable in that it is entirely in accord with the point of view which was submitted for your approval; but, in order that the communication which the Department of State will send to the appropriate office of the Government of the United States may be more in consonance with the instruction which the Government of Guatemala will have to give, for their information and guidance, to the authorities of Guatemala concerned with the entrance of foreign aircraft, I propose that said communication should be worded as follows:

As parties to the Habana Convention on Commercial Aviation adopted at Habana, Cuba, on February 20, 1928, the Government of the United States of America and the Government of Guatemala have reached an understanding that the private aircraft of either country engaged in pleasure or tourist flights may enter territory of the other country without the necessity of obtaining special authorization for each flight from the Government of the latter country.

Such right of entry is, however, conditioned upon compliance with the technical requirements as to entry and clearance and other regulations in force in the country entered.

In case of aircraft of the United States departing for Guatemala, advance notice of the intended arrival of the aircraft in Guatemala must be given by the pilot of the aircraft, which should be in an airport of entrance unless

prior authorization to land elsewhere be obtained from the Ministry of Fomento of Guatemala.

This notice must be communicated by the pilot directly to the Ministry of Fomento, Guatemala City and must contain the following data: type of aircraft, its individual marks and identification, the name of the pilot, and the approximate date of the arrival of the aircraft.

The only difference between the foregoing proposal and that in the agreement which the Minister of the United States has been pleased to submit for the consideration of the Government of Guatemala is in the part that says:

“ . . . which should be in an airport of entrance unless prior authorization to land elsewhere be obtained from the Ministry of Fomento of Guatemala.”

Said paragraph has been added for the reason that only airports of entrance and departure have customs authorities, that is to say, the airports of “L Aurora” and Barrios.

I have the honor to submit the foregoing to the consideration of the Minister for whatever he may decide with respect to the proposal made by this General Bureau.

With assurances of my high consideration and respect.

JOSÉ F. MEJÍA      [SEAL]

MR. MINISTER OF FOMENTO

*Present*

I avail myself of this opportunity to repeat to Your Excellency the assurances of my highest and most distinguished consideration.

A. SKINNER KLEE